

ASSEMBLY BILL

No. 484

Introduced by Assembly Member Benoit

February 16, 2005

An act to amend Section 15656 of the Welfare and Institutions Code, relating to elder and dependent adult abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 484, as introduced, Benoit. Elder and dependent adults: theft or embezzlement by caretaker.

Under existing law, the Elder and Dependent Adult Civil Protection Act, a caretaker, as defined, of an elder or dependent adult who violates a law prescribing theft or embezzlement with respect to the property of the elder or dependent adult, may be subject to imprisonment in the county jail or state prison or a fine, or by both the imprisonment and the fine, if value of the money, labor, or real or personal property taken exceeds \$400.

This bill would make it a felony, punishable by imprisonment in the state prison, for a caretaker of an elder or dependent adult to commit a second or subsequent violation of any law prescribing theft or embezzlement with respect to the property of the elder or dependent adult, regardless of the value of the money, labor, or real or personal property taken. The bill would also make additional technical changes to existing law. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 15656 of the Welfare and Institutions
2 Code is amended to read:
3 15656. (a) Any person who knows or reasonably should
4 know that a person is an elder or dependent adult and who, under
5 circumstances or conditions likely to produce great bodily harm
6 or death, willfully causes or permits any elder or dependent adult
7 to suffer, or inflicts unjustifiable physical pain or mental
8 suffering upon him or her, or having the care or custody of any
9 elder or dependent adult, willfully causes or permits the person or
10 health of the elder or dependent adult to be injured, or willfully
11 causes or permits the elder or dependent adult to be placed in a
12 situation—~~such so~~ that his or her person or health is endangered, is
13 ~~punishable~~ *subject to punishment* by imprisonment in the county
14 jail not exceeding one year, or in the state prison for two, three,
15 or four years.
16 (b) Any person who knows or reasonably should know that a
17 person is an elder or dependent adult and who, under
18 circumstances or conditions other than those likely to produce
19 great bodily harm or death, willfully causes or permits any elder
20 or dependent adult to suffer, or inflicts unjustifiable physical pain
21 or mental suffering on him or her, or having the care or custody
22 of any elder or dependent adult, willfully causes or permits the
23 person or health of the elder or dependent adult to be injured or
24 willfully causes or permits the elder or dependent adult to be
25 placed in a situation—~~such so~~ that his or her person or health may
26 be endangered, is guilty of a misdemeanor.
27 (c) (1) Any caretaker of an elder or a dependent adult who
28 violates any provision of law prescribing theft or embezzlement,
29 with respect to the property of that elder or dependent adult, is
30 ~~punishable~~ *subject to punishment* by imprisonment in the county
31 jail not exceeding one year, or in the state prison for two, three,
32 or four years when the money, labor, or real or personal property
33 taken is of a value exceeding four hundred dollars (\$400), and by

1 a fine not exceeding one thousand dollars (\$1,000), or by
2 imprisonment in the county jail not exceeding one year, or by
3 both that imprisonment and fine, when the money, labor, or real
4 or personal property taken is of a value not exceeding four
5 hundred dollars (\$400).

6 *(2) A caretaker of an elder or dependent adult who violates*
7 *any provision of law prescribing theft or embezzlement, with*
8 *respect to the property of that elder or dependent adult, after*
9 *having been previously convicted of a violation pursuant to*
10 *paragraph (1), is guilty of a felony, punishable by imprisonment*
11 *in the state prison for two, three, or four years. This paragraph*
12 *shall apply regardless of the value of the money, labor, or real or*
13 *personal property taken.*

14 (d) As used in this section, “caretaker” means any person who
15 has the care, custody, or control of or who stands in a position of
16 trust with, an elder or a dependent adult.

17 (e) Conduct covered in subdivision (b) of Section 15610.57
18 shall not be subject to this section.

19 SEC. 2. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the
24 penalty for a crime or infraction, within the meaning of Section
25 17556 of the Government Code, or changes the definition of a
26 crime within the meaning of Section 6 of Article XIII B of the
27 California Constitution.